



FULL BOARD MEETING Crosby Township Senior Center

Saturday, April 12, 2003

FINAL MINUTES

The Fernald Citizens Advisory board met from 8:30 a.m. to 9:30 a.m. on Saturday, April 12, 2003, at Fernald Closure Site. This abbreviated meeting was followed by a site tour for the FCAB members.

Members Present:

Kathryn Brown
Sandy Butterfield
Marvin Clawson
Lisa Crawford
Pam Dunn
Jane Harper
Steve McCracken
Graham Mitchell
Gene Willeke

Members Absent:

French Bell
Jim Bierer
Lisa Blair
Blain Burton
Steve DePoe
Lou Doll
Gene Jablonowski
Robert Tabor
Tom Wagner

Designated Federal Official:

Gary Stegner

The Perspectives Group Staff:

Douglas Sarno
David Bidwell

Fluor Fernald Staff:

Sue Walpole

Approximately ten spectators also attended the meeting, including members of the public and representatives from the Department of Energy and Fluor Fernald.

Designation of Silos Waste as 11e.(2)

Lisa Crawford called the meeting to order at 8:35 a.m. Doug Sarno reviewed the agenda.

Doug explained that Fluor Fernald recently asked the FCAB to submit a letter of support for the designation of Silos waste as 11e.(2) to the Nuclear Regulatory Commission (NRC). Dennis Carr explained that this designation would allow Fluor Fernald to dispose of silos waste at a licensed commercial facility, such as Envirocare. DOE has already designated the materials currently stored in the silos as meeting the conditions of section 11e.(2) of the Atomic Energy Act, but would like NRC concurrence with this designation. Because the definition of 11e.(2) materials was written in 1978, NRC does not consider waste generated prior to 1978 as 11e.(2). DOE's pursuit of NRC concurrence became legally complicated, so DOE has abandoned its efforts on this initiative. Dennis stated that Fluor is trying to get NRC to concur with this designation in a way that would not set a precedent for other sites. He noted that Fluor has hired a legal firm and lobbyist to work on this issue and is trying to garner support from the State of Utah, the State of Ohio, and U.S. Representative Hobson of Ohio, who sits on the NRC appropriations committee. Dennis also explained that Fluor would meet with technical staff from NRC, as well as its Commissioners. Bob Warthur (DOE-Ohio) explained that DOE-Ohio would submit a letter of support for this designation, since DOE would remain the long-term custodian of these wastes. He noted that NRC has indicated to him that no technical reasons would preclude this waste from the 11e.(2) designation; the obstacles are purely legal.

In response to a question from an FCAB member, Dennis stated that decision documents for Fernald have always portrayed the silos materials as 11e.(2). He explained that, as mine tailings, this material has been excluded from RCRA's leachability treatment requirements. He further explained that at the time the Record of Decision (ROD) was developed for the silos, the Nevada Test Site (NTS) was the only disposal option and NTS did not recognize the RCRA exclusion for 11e.(2) materials. That is why treatment for RCRA metals was included in the original ROD. Since that time, however, NTS has changed its Waste Acceptance Criteria to conform to this RCRA exclusion. Dennis stated that this designation is only relevant to disposal of the wastes, not transportation.

The FCAB then discussed sending a draft letter of support for the request to NRC to change its designation. Doug Sarno noted that the focus of the letter was to reinforce the FCAB's endorsement of rail transport as safer and more cost-effective than truck, and does not raise any new issues for the Board. The draft letter only discussed materials from Silos 1 and 2, although the concurrence of NRC on the 11e.(2) designation could pertain to the materials in all three silos. The Board agreed to submit the letter to NRC, but stated that the letter should ask for concurrence on the designation of all silos materials as 11e.(2).

Follow-up on March CAT Report

At the March FCAB meeting, the Critical Analysis Team (CAT) reported several concerns regarding the Silos Project. Many of the CAT members' concerns were related to communication between the CAT and the Silos Project Team. Doug reported that he had followed-up with Todd Martin of the CAT, and that Todd indicated that two improvements to communication have been instituted: 1) the Silos Team and CAT will conduct a conference call every two weeks, and 2) documents that will be or have been reviewed by the CAT will be tracked in a more formal manner.

Doug also presented to the FCAB a response from the site regarding the CAT's concerns. This memo also explained the steps that would be taken to improve communications between the CAT and Silos Project Team. Steve McCracken stated that he is confident that these process changes will improve communications. Doug noted that the memo stated that, due to the accelerated schedule at the site, the CAT might not see all documents related to the Silos Project. Dennis Carr explained that the CAT would receive all documents related to the baseline schedule for the Silos Project, but would not see all of the documentation produced during construction. FCAB members agreed with Dennis that it is important that the CAT remains focused on higher level, conceptual issues.

FCAB members stressed the importance of communications between the CAT and the FCAB, and asked that CAT members attend FCAB meetings more frequently. Pam Dunn suggested that the CAT could meet informally with FCAB members when they visit the site, if their visit does not coincide with a FCAB meeting.

Other Issues

Pam Dunn reported that she and Tom Wagner attended the SSAB Chairs meeting in Denver. She explained that all SSABs are concerned that the FY04 DOE budget request reduces funding for the SSABs and other public participation. Pam stated that the Designated Federal Official for SSABs, Sandra Waisley, mentioned DOE headquarters assessments of SSABs, but no effort has been made to discuss these matters with members of the public. David Bidwell noted that a conference call for site staff would be held on Friday, April 18, to discuss the management of SSABs. Pam noted that the next Chairs meeting is tentatively scheduled for September in Paducah, Kentucky.

Doug, who also attended the Chairs meeting, stated that SSAB members throughout the DOE Complex are concerned that DOE is rolling back its commitment to public participation and is relying too heavily on formal comment periods for decision documents. He further noted that the budget submitted for FY04 would make it difficult for sites to host or attend inter-site SSAB meetings and workshops. The SSAB agreed to submit a letter to DOE, requesting funding for FY04 that would allow it to maintain its regular meeting schedule and other activities. Gary Stegner suggested that the Executive Board of the SSAB meet to discuss budget issues and set priorities for funding.

Pam reported that Mike Owen, the interim manager for the Office of Legacy Management (LM), spoke at the April 10 Stewardship Committee meeting. She stated that LM is still being formed, and few details were available about the organization. Pam also stated that Dan Collette (Grand Junction Office contractor) had provided a good presentation on the Internet-based database being used by Grand Junction to provide access to closure site information. David noted that Mike Owen stated at the meeting that LM would not develop its own specific public participation program, but would use existing DOE public involvement structures. Gary stated that DOE is working on a response to the FCAB's letter regarding the role of SSABs in LM. He indicated that LM might partner on the SSAB charter with the Office of Environmental Management.

Doug suggested that the SSAB discuss budget issues its May meeting. Topics should include the SSAB budget, the site budget for FY04 and FY05, and the recently signed, renegotiated Fluor contract.

Full Board Meeting

April 12, 2003

David reported that the U.S. Fish and Wildlife Service and DOE-Ohio confirmed their attendance at the May 8 roundtable for the Natural Resource Damages Settlement. Graham Mitchell reported that he would attend for the State of Ohio and that he expects a member of the Attorney General's Office will also attend.

Pam asked about the status of funding for the Rocky Flats Wildlife Museum. Steve McCracken stated that he would get more information regarding this project and any funding that has been requested or allocated for it.

The meeting adjourned at 9:30 a.m. so that the FCAB could tour the site.

Next Meeting

The next full Board meeting will be held from 8:30 a.m. to 12:00 noon on Saturday, May 10, 2003, at the Crosby Township Senior Center.

All FCAB members are encouraged to attend the Natural Resource Damages Settlement roundtable discussion, which will be held at the Crosby Township Senior Center from 6:30 p.m. to 8:30 p.m. on Thursday, May 8, 2003.

I certify that these minutes are an accurate account of the April 12, 2003 meeting of the Fernald Citizens Advisory Board.

James Bierer	Date
Fernald Citizens Advisory Board Chairman	

Gary Stegner	Date
Deputy Designated Federal Official	